

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4068 OF 2007

Shri Yashwant H. Powar ..Petitioner

Vs.

M/s.Navbharat Builders and anr. ..Respondents

Mr. S.M. Paranjape for petitioner.
Mr. Vijay Patil for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : December 14, 2007.

P.C.:

1. Heard Mr. Paranjape the learned counsel for the petitioner-workman. On earlier occasion this petition was dismissed for non prosecution and subsequently as per the order dated 7/12/2007 it came to be restored. The petitioner impugns the award dated 15/9/2005 passed by the 3rd Labour Court at Pune thereby dismissing the Reference (IDA) No.326 of 1999 by a common judgment deciding 31 references made for the identical relief i.e. reinstatement in service with backwages and continuity of service with effect

from 1/1/1997.

2. After the second party-workman filed his statement of claim, the first party no.1 - Navabharat Builders filed its Written Statement at Exh.10 and pointed out that the aggrieved workman was employed by them for a specific project i.e. Dimbhe Dam and the said project was being executed by the first party no.2. The Labour Court at the first instance held that the claim made for the reinstatement would be agitated against the first party no.2 and the demand was, therefore, confined for consideration only against first party no.1.

3. The Labour Court considered the evidence as adduced by both the parties and noted that the workman was appointed for the Dimbhe Dam project and 97% work of the said dam was completed in the year 1993. Remaining work of 3% was completed by June 1994 and, therefore, the workman came to be discontinued. The workmen formed a Union by name Navabharat Builders Employees Union and had filed Complaint (ULP) No. 288/93 and 164/93 before the Industrial Court at Pune.

During the pendency of these complaints settlement came to be signed between the parties in the year 1993 itself and in the said settlement it was agreed that the workmen who were discontinued would not claim reinstatement and the workmen who were continued on rolls would submit their resignation. The settlement was implemented and the legal dues as agreed therein were also paid. There was no dispute that the settlement was implemented by both the parties and, therefore, the Labour Court recorded a finding that there are no termination of service of the workmen at the hands of their employer, namely, the first party no.1.

4. It was alleged by the workmen that they were terminated from service and that too without following the mandatory requirement of Section 25F of the I.D. Act. The Labour Court noted that the workmen were appointed for a specific project i.e. Dimbhe Dam and on its completion they were not continued and, therefore, the discontinuation was covered by the Explanation under Section 2(oo) (bb) of the I.D. Act and, in fact, their employment had automatically

come to an end. Pursuant to the settlement of 1993 the remaining employees had themselves resigned and collected their dues. In these obtaining circumstances, there was no termination of service, leave alone illegal termination of service and reference came to be turned down. The reasoning set out by the Labour Court is based on the evidence adduced by both the parties and the arguments advanced before it. The award passed by the Labour Court does not suffer from any errors apparent on the face of the record and, therefore, there is no case made out to cause interference under Article 227 of the Constitution.

5. Hence, the petition is rejected summarily.

(B.H. Marlapalle, J.)